

CIVIL
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

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CLERK *L. Johnson*
SO. DIST. OF GA.

KENNETH CLARK PRUITT,)
)
Plaintiff,)
)
v.) CV 105-012
)
RICHARD ROUNTREE, RONALD)
ROUNDTREE, CHARLES WEIGLE, and)
AUGUSTA/RICHMOND COUNTY,)
)
Defendants.)

O R D E R

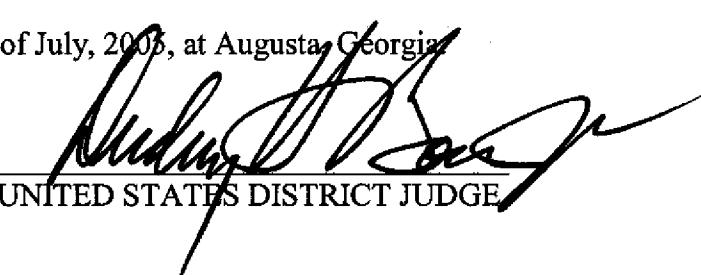
After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation to which objections have been filed. In support of his objection that Assistant District Attorney Charles Weigle is not entitled to immunity for all actions he took while performing his function as an advocate for the government, Plaintiff relies on a case that is no longer good law. Mastroianni v. Bowers, 160 F.3d 671 (11th Cir. 1998), *vacated and superseded*, 173 F.3d 1363 (11th Cir. 1999). For the reasons stated in the Report and Recommendation, the Magistrate Judge correctly advised that Defendant Weigle be dismissed from the case.

Plaintiff also objects that the Report and Recommendation failed to address his claims that his Fifth and Sixth Amendment rights were violated. In the amended complaint, Plaintiff made the blanket statement that he invoked his Fifth and Sixth Amendment rights

during questioning by Defendant Roundtree and that invoking these rights made Defendant Roundtree angry, causing him to proceed with Plaintiff's unconstitutional arrest and detention by making false statements at a preliminary hearing. (Amd. Compl., Attach., pp. 1-2). The Magistrate Judge already sanctioned a Fourth Amendment claim against Defendant Roundtree based on alleged improper procedures used to seize Plaintiff. (Doc. no. 14). Neither Plaintiff's amended complaint or objections identify any stand alone Fifth or Sixth Amendment claims,¹ let alone any damage incurred therefrom that is not covered by the Magistrate Judge's Order sanctioning a Fourth Amendment claim against Defendant Roundtree.

All remaining objections are also overruled. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Ronald Strength, Charles Weigle, and Augusta/Richmond County, along with all of Plaintiff's purported conspiracy claims, are **DISMISSED** from this case.

SO ORDERED this 25th day of July, 2005, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹For example, Plaintiff does not allege that Defendant Roundtree failed to honor the invocation of his Fifth and Sixth Amendment rights. Moreover, Plaintiff previously made explicitly clear that in this case he is challenging his arrest and seizure, not his conviction or sentence that were obtained as a result of allegedly improper procedures used to bring charges against him. (Doc. no. 9, p. 1).

United States District Court
Southern District of Georgia

PRUITT

_____)

vs

ROUNDTREE, et al.

_____)

CASE NUMBER CV105-12

DIVISION AUGUSTA

The undersigned, a regularly appointed and qualified deputy in the office of the Clerk of this district, while conducting the business of the Court for said division, does hereby certify the following:

1. Pursuant to the instructions from the Court and in the performance of my official duties, I personally placed in the United States Mail a sealed envelope, and properly addressed to each of the persons, parties or attorneys named below; and
2. That the aforementioned enveloped contained a copy of the document dated _____, which is part of the official record of this case.

Date of Mailing: 07/21/05

Date of Certificate same date, or _____

Scott L. Poff, Clerk

By:

Ike H. Burton

Deputy Clerk

Name and Address

Kenneth Clark Pruitt, Pro Se, at prison

- Copy placed in Minutes
 Copy given to Judge
 Copy given to Magistrate